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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 661 OF 2006

Sitaram Tukaram Zende ... Appellant
V/s
Janardan Krishna Dalvi ... Respondent

Mr. P.J. Pawar for the appellant.

Mr. S. S. Kulkarni for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 10TH JULY, 2007.

P.C.:

1. The only contention raised by the appellant herein is that the suit property could not have been sold by Chandrabhaga to the respondent since she was not the absolute owner. No pleading to that effect is raised by the appellant before the trial Court and, therefore, the appellate Court has rightly decreed the suit.

2. The appellant has raised this issue regarding the ownership right of Chandrabhaga for the first time before the appellate Court without there being any pleadings in the record. The appeal is rightly allowed. No substantial question of law is raised.

3. Appeal dismissed.

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